

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 35196

STATE OF IDAHO,)	2009 Unpublished Opinion No. 690
)	
Plaintiff-Respondent,)	Filed: November 24, 2009
)	
v.)	Stephen W. Kenyon, Clerk
)	
JACK LEE BASSHAM,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bingham County. Hon. Jon J. Shindurling, District Judge.

Order revoking probation and ordering into execution previously imposed sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Eric D. Fredericksen, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before GUTIERREZ, Judge, GRATTON, Judge
and MELANSON, Judge

PER CURIAM

Jack Lee Bassham was charged with and pled guilty to possession of a controlled substance, methamphetamine, Idaho Code § 37-2732(c)(1), and was sentenced to a unified term of five years, with one year determinate, and the district court retained jurisdiction. After Bassham completed his rider, the district court suspended the sentence and placed Bassham on probation for five years. Bassham subsequently violated the terms of his probation and the district court revoked his probation and ordered the underlying sentence into execution. Bassham filed an Idaho Criminal Rule 35 motion for reduction of sentence, which the district court denied. Bassham appeals from the revocation of his probation, contending that the district

abused its discretion by revoking his probation and by ordering his sentence into execution without reduction.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 326, 834 P.2d 326, 328 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation, a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Upon revoking a defendant's probation, a court may order the original sentence executed or reduce the sentence as authorized by Idaho Criminal Rule 35. *State v. Hanington*, ___ Idaho ___, ___ P.3d ___ (Ct. App. 2009) (citing *State v. Beckett*, 122 Idaho 324, 326, 834 P.2d 326, 328 (Ct. App. 1992); *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989)). A court's decision not to reduce a sentence is reviewed for an abuse of discretion subject to the well-established standards governing whether a sentence is excessive. *Hanington*, ___ Idaho at ___, ___ P.3d at ___. Those standards require an appellant to "establish that, under any reasonable view of the facts, the sentence was excessive considering the objectives of criminal punishment." *State v. Stover*, 140 Idaho 927, 933, 104 P.3d 969, 975 (2005). Those objectives are: "(1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrong doing." *State v. Wolfe*, 99 Idaho 382, 384, 582 P.2d 728, 730 (1978). The reviewing court "will examine the entire record encompassing events before and after the original judgment," i.e., "facts existing when the sentence was imposed as well as events occurring between the original sentencing and the revocation of probation." *Hanington*, ___ Idaho at ___, ___ P.3d at ___.

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in revoking probation or in failing to reduce the sentence upon revoking probation. Therefore, the order revoking probation and directing execution of Bassham's previously suspended sentence is affirmed.